



RICHARD J. CODEY
Acting Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Physical Therapy Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102



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October 3, 2005

Timothy Martin, P.T.A.
22 Joeynda Road
Flanders, N.J. 07836

Re: Offer of Settlement in Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Martin:

This letter is to advise you that the New Jersey State Board of Physical Therapy Examiners ("Board") has had an opportunity to review information concerning the physical therapy treatment you rendered to R.S. at Denville Medical Sports Rehabilitation Center in February, 2004. Specifically, the information reviewed consisted of R.S.'s patient record and the testimony at the investigative inquiry that you attended with your attorney, Joseph Gorrell, Esquire on November 9, 2004 and the testimony of Rachel Guilshan, P.T. and Holly Terranova at an investigative inquiry held on April 12, 2005 also attended to by Mr. Joseph Gorrell, Esquire. Specifically, the Board concluded the following from the information reviewed:

R.S. complained about the physical therapist assistant taping his knee, the licensees' failure to assure that the vinyl covered benches were sanitized, the staff's failure to wear name tags and the close proximity of the tables where patients received treatment along side other patients.

A review of your testimony and the patient record demonstrated that you have been employed at Denville Medical Sports Rehabilitation Center from September of 2000 to the present and that you hold the title of physical therapist assistant. Your duties as a physical therapist assistant included the implementation of the plan of care with the patients, setting up and issuing modalities and instructing and assisting patients with exercises (T8:23-25 and T9:1-2).

Your testimony further confirmed that you were familiar with this complainant and you provided physical therapy treatment to him on February 10, 11, 16 and 18, 2004. On February 10, you performed ultrasound, manual therapy, exercise, ice and electric stimulation, isokinetic evaluation on the Biodex and taping of the patients knee. Upon questioning regarding your rationale for taping this patient's knee you testified that you do not specifically recall a conversation with the physical therapist regarding this issue prior

to your making the decision to tape the knee as a result of your observation of the patient's tracking problem (T11:3-21). Furthermore, your testimony also confirmed that Ms. Guilshan, P.T. who was your direct supervisor with this patient did not note on the initial evaluation dated February 10, 2004, that the patient was encountering a tracking problem. (T15:12-15) Additional testimony by Ms. Guilshan confirmed that she could not recall having a conversation with you prior to your taping the knee of this patient. Thus, you as a physical therapist assistant were not authorized by the physical therapist to take such action in treating the patient. The initial evaluation indicated that the patient's knee was within normal range and did not support taping.

A review of the patient record further reveals that the record does not contain a notation of the alleged conversation with the physical therapist which permitted you to change the plan of care by taping the patient's knee.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that your actions violated N.J.S.A. 45:9-37.20 and N.J.A.C. 13:39A-7.1 (c) & 7.2(d) and 7.3(a and b) in that you exceeded the scope of practice of a physical therapist assistant by your action of taping the patient's knee without having obtained the direction of the physical therapist as this action was not noted in the physical therapist's plan of care. Additionally, you failed to document the conversation with the physical therapist prior to taping the patient's knee. This action constituted a violation of the record keeping regulation as set forth in N.J.A.C. 13:39A-3.1(c)11. The Board also found that you failed to include your license number on your business card in violation of N.J.A.C. 13:39A-8.4(A)1.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist in the future from exceeding the scope of practice of a physical therapist assistant by seeking direction from a physical therapist before making changes to a patient's plan of care and by documenting in the patient record any conversations with the physical therapist which authorized you to make a change to the treatment plan as required by N.J.S.A. 45:9-37.20, N.J.A.C. 13:39A-7.1(c), 7.2(d) and 7.3 (a and b) and N.J.A.C. 13:39A-3.1(c)11.
2. Cease and desist in the future from failing to include your license number on your business cards as required by N.J.S.A. 13:39A-8.4(a)1.
3. This shall serve as a formal reprimand for violation of N.J.S.A. 45:9-37.20, N.J.A.C. 13:39A-7.1(c), 7.2(d) and 7.3 (a and b) and N.J.A.C. 13:39A-3.1(c)11.
4. Pay a penalty in the amount of \$4,500.00 consisting of \$2,000.00 for violations for initiating treatment that was not within the plan of care and thus exceed the scope of practice of the physical therapist assistant in violation of N.J.S.A. 45:9-37.20(b), N.J.A.C. 13:39A-7.1(c), and \$2,000.00 for violations of the record keeping regulation as set forth in N.J.A.C. 13:39A-3.1(c) 11 and \$500.00 for failing to include your license number on your business card. Payment shall be remitted in full within thirty days of the acceptance of this settlement offer by certified check or money order to the Board of Physical Therapy,

attention Susan Gartland, Executive Director, P.O. Box 45014, 124 Halsey Street, Newark, New Jersey 07101. Should you fail to remit the full amount of the payment or costs as agreed upon by this settlement offer, you are advised that the Board may file a certificate of debt against you with the Clerk of the Superior Court of New Jersey.

5. Pay costs in the amount of \$281.50 which represents the total amount of the entire investigation as reflected in the certification of Susan Gartland, Executive Director that is attached hereto.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

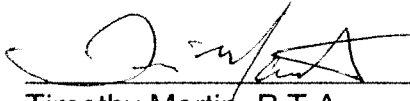
In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you have Joseph Gorrell, your attorney contact Deputy Attorney General, Carmen A. Rodriguez who may be reached at (973)-648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD OF
PHYSICAL THERAPY EXAMINERS

By: 
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Timothy Martin, P.T.A., hereby acknowledges that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$4500.00 plus costs in the amount of \$281.50 for a total of \$4,781.50 to be paid upon signing of this acknowledgment).



Timothy Martin, P.T.A.

DATE: 10/17/05

cc: Joseph Gorrell , Esquire.
Carmen A. Rodriguez, D.A.G.